

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MARTEZ KIMBROUGH,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:10CV438 SNLJ/FRB
)	
MICHAEL J. ASTRUE, Commissioner)	
of Social Security,)	
)	
Defendant.)	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Presently before the Court is the Application For Award Of Attorney's Fees Pursuant To The Equal Access To Justice Act (Docket No. 23). This matter was referred to the undersigned United States Magistrate Judge for appropriate disposition pursuant to 28 U.S.C. § 636(b).

This cause came before the Court on plaintiff's appeal of an adverse decision of the Social Security Administration. In this Court's Judgment entered November 18, 2010, the Commissioner's decision was reversed and this cause was ordered remanded to the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g).

Plaintiff now seeks an award of attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(B) ("EAJA"), in the amount of \$1,852.14. In support, plaintiff avers that he is a prevailing party, has a net worth of less than two million dollars, and incurred these fees in this action. 28 U.S.C. § 2412(d).

In his response filed December 30, 2010, the Commissioner stated that he had no objection to plaintiff's request for fees under the EAJA, but requests that the fee be awarded payable to plaintiff, pursuant to Astrue v. Ratliff, --- U.S. ---, 130 S.Ct. 2521 (2010) (holding that an EAJA fee award is payable to the litigant, and is therefore subject to a government offset to satisfy any pre-existing debt that the litigant owes to the United States).

Upon review of the motion, the undersigned determines plaintiff's requested fees to be reasonable.

Accordingly,

IT IS HEREBY RECOMMENDED that plaintiff's Application For Award Of Attorney's Fees Pursuant To The Equal Access To Justice Act (Docket No. 23) is **GRANTED**.

IT IS FURTHER RECOMMENDED that, pursuant to 28 U.S.C. § 2412(d), plaintiff shall recover attorney's fees in the amount of One Thousand, Eight Hundred, Fifty-Two Dollars and Fourteen Cents (\$1,852.14).

IT IS FURTHER RECOMMENDED that, in accordance with Astrue v. Ratliff, --- U.S. ---, 130 S.Ct. 2521, this award shall be made payable to plaintiff Martez Kimbrough.

The parties are advised that they have to and including February 2, 2011, to file written objections to this Report and Recommendation. Failure to timely file objections may result in waiver of the right to appeal questions of fact. Thompson v. Nix, 897 F.2d 356, 357 (8th Cir. 1990).



Frederick R. Buckles
UNITED STATES MAGISTRATE JUDGE

Dated this 19th day of January, 2010.